

PROVIDER FEEDBACK ON DRAFT FY 2021-2022 COST REPORTING PROCESS (MERCER PROJECT)

Part I – Comments Received through 6/30/21 (multiple sources combined)

General Comments

1. Comment: The two-week comment period was not sufficient time to review 77 pages of updated instructions and two very detailed workbooks that each have approximately 25 tabs. Traditionally, 30 days are provided for public comment.

Recommendation: PAR recommends that ODP allow two additional weeks for comment on these proposed instructions and templates. PAR recommends that ODP always allow a minimum of 30 days for future comment periods to allow providers, family members, and others to sufficiently review the materials.

Response: ODP will continue to accept comments if they are particularly relevant.

2. Comment: We feel it would be easier to read if Budget and Cost report instructions were separated by report. [also #37]

Response: Thank you for your comment. Separation of the instructions is being considered and still being discussed.

3. Question: Will providers be submitting waiver narratives/documentation in the same format as the budgets, and will a similar process be used to submit the general documentation packages and apportioned cost plans?

Response: All submittals will include a transmittal letter and either an ID-46 Cost Report or ID-47 Budget and Budget Change form consistent with the instructions and Appendix A. Supporting documentation required for FY 21-22 will be similar to that submitted in prior years. ODP will be working on creating an updated list of documentation required for each type of waiver request. That updated documentation list will be included in the instructions for subsequent years.

4. Comment: The initial set up of these forms will be very time consuming for providers, especially with client detail.

Recommendation: PAR recommends that ICF/ID provider finance staff receive a report from ODP that includes SIS and HRST information for all ICF/ID individuals by the location where they reside. This would reduce the time needed to complete the form for providers.

Response: The ID-46 Budget and Budget Change Request form has been simplified. The cost report review and desk audit processes are being combined. In the future, ODP staff will have a standard database, which will save resources and time. SIS and HRST data will be shared once it is available.

5. Comment: In both the Budget Report and Cost Report forms, some pages are not set to print correctly or are not large enough and the file and print settings cannot be changed. [also #61.c]

Recommendation: PAR recommends that ODP ensure that the excel files are set up to allowing printing of all content.

Response: Print ranges will be set up for the final versions.

6. Question: Will providers receive something replacing the “stamped approved” budgets (i.e. this form back and a letter from ODP verifying funding levels and rates) ?

Response: The provider will receive a copy of the approved budget back with line item approvals noted.

Instructions

7. Question: Page 8 of the instructions indicates Cost Reports are due on September 30th and a subsequent paragraph cites the regulation that cost reports are due within 90 days of the close of each fiscal year. September 30th is 92 days after the end of the June 30th fiscal year. Are cost reports due September 30th or September 28th? The 6210's and 6211's appear to contradict each other.

Response: ODP is consulting DHS Legal Counsel for clarification and will update documents as necessary.

8. Comment: Page 9 of the instructions permits the movement of funds between major objects of expenditures and cost centers, however, due to the often very low approved budget of the equipment/other (non-depreciable) fixed assets category, allowing only 10% to be moved to this category is not sufficient. The intent of allowing funds to be moved between expenditure categories is to provide a degree of flexibility and to avoid trivial waiver requests, but the 10% ceiling becomes a barrier. Take for example a home that has a \$4,000 approved budget for non-depreciable equipment and other fixed assets. A provider could move \$400 to this line item to increase to \$4,400 without submitting a waiver request but the \$400 is not high enough to avoid submitting requests for any one of the following: dishwasher, washer, dryer, hot water heater, refrigerator, or freezer. Accordingly, providers will still have to submit and ODP will still have to review small dollar waiver request.

Response: 6211.124 permits providers to move funds between major objects of expenditure and cost centers within 10% of the approved amount per major object of expenditure and cost center, during the course of the fiscal year. Regulations require that movement of funds/budget adjustments greater than 10% require submission of waiver request.

9. Question: What is process if the provider wants to shift less than 10% from one line item to another? The way the forms are set up, it is unclear how to do so. Additionally, if the provider wants to shift more than 10% from one line item to another, do they do that on these forms and what is the process and timing for that? [also #79]

Recommendation: PAR recommends that ODP provide additional clarity in the instructions specific to the timing of submitting budget modifications to move funding from one line to another. ODP should also provide further clarity on the parameters for moving funding from one line to another. Is the 10% limitation based on 10% of the providers total approved budget or is the 10% threshold intended to be applied to prevent more an individual line item, cost center, or major object of expenditure from increasing by more than 10%. Finally, ODP should clarify the process for moving

more than 10% from one cost report line to another. Adding a frequently asked questions section may also be a helpful resource for providers.

Response: Consistent with regulation 6211.124, providers may move funds between major objects of expenditure and cost centers within 10% of the approved amount per major object of expenditure and cost center, during the course of the fiscal year. There is no required submittal if a waiver request or movement of funds is not required. The built in comparison/check in Schedule 1 of the ID-46 accounts for the 10%, as long as the reported amounts are not in excess of total approved funding, nothing is needed. Budget adjustments greater than 10% require submission of the waiver/budget/movement of funds process. Additional clarification in the instructions will be added.

10. Comment: The acronym “STD” is used three times on page 11 and once on page 49 but is not defined anywhere.

Recommendation: PAR asks that ODP define “STD” in the instructions. If this is standard deviation, please consider writing out standard deviation.

Response: STD stands for standard deviation and will be written out in the instructions.

11. Comment: Page 11 indicates overtime is a one-time-only cost. Cost report data demonstrates ICF’s have always had and will always have overtime. Approving overtime requests on a one-time-only basis creates additional work for the provider agency as well as the Department as these requests must be submitted, reviewed, and processed year after year. ICFs are at best a cost-reimbursed programs and, in many instances, providers operate the program at a financial deficit. In the event the provider has less overtime in a future year, the provider does not get to keep the overfunding. Instead, unspent funds are returned to the Department upon cost settlement. The administrative burden associated with approving overtime requests as one-time-only is not justified in the uncommon instances that providers are over-funded for overtime costs for a few months before returning the funds at cost settlement. This is now truer than ever as the proposed cost settlement process is designed to occur much faster than historically was the case.

Recommendation: Due to the COVID-19 pandemic, the DSP turnover rate has increased dramatically, and is likely creating a greater number of empty positions. These empty positions are being covered by existing DSPs and increased overtime. PAR recommends that ODP consider overtime as an ongoing cost until the workforce shortage ends.

Response: Extraordinary overtime is intended to be a one-time only waiver approval that the Commonwealth may approve above historic facility overtime staffing levels for extraordinary circumstances.

In FY 2015–2016, ODP allowed providers to have a per diem rate on actual costs, so any overtime costs in that year were made permanent. It was carried forward to future years. In FY 2019–2020, ODP allowed providers to have a per diem rate on actual costs, so any overtime in that year were made permanent. The current funding levels provide for overtime. ODP recognizes that overtime has increased for more providers during FY 2020–2021, and we approved all overtime requests one time only. The only way to provide additional funding for overtime on a temporary basis is one time only approval. The regulations allow unspent funding from one cost category to be moved to other cost categories or other service locations (MOF), so if overtime decreases the funding is most likely spent elsewhere.

12. Comment: The instructions refer to the use of the SIS and HRST to determine if a waiver request will be approved. SIS and HRST are not always indicative of staffing level. The ISP, however, does list the

required staffing level. Providers are obligated to meet the level of service described in the ISP, irrespective of the SIS or HRST ratings.

Recommendation: Staffing levels per the ISP and other considerations to ensure that all ICF individuals are appropriately supported should be considered in addition to the SIS and HRST. Basing funding on standard deviations from the mean is not always indicative of the actual, allowable, and unavoidable cost necessary to be incurred in order to meet the health and safety needs of the vulnerable individuals served in ICF's. [also #48]

Response: The SIS/HRST scores, when they are implemented in the future, are intended to be a transparent threshold to providers to understand at what point the Commonwealth will approve extraordinary staffing above historic facility staffing levels.

13. Comment: Page 14 stipulates that the Agreed Upon Procedures outlined by the agency will be used by the independent auditors of facilities. It is understood that the Department and not the provider agency is the entity that is responsible for outlining the procedures auditors will follow.

Recommendation: If the Department is responsible for outlining the procedures auditors will follow, PAR recommends changing the wording to provide clarity. For example, "At the time of final cost settlements (which will occur using the updated ID-46 confirmed by the facilities independent auditors using the Agreed Upon Procedures outlined by the ~~agency~~ Department), amounts will be 100% of amounts either due to or from the Department."

Response: This change will be made.

14. Comment: On page 14 in the "Audit Guide," it is unclear why independent auditors hired by providers have to review waiver requests. The review of waiver request is the responsibility of the Department. While it is understandable why independent auditors would perform procedures to tie out the cost report and test to validate the accuracy of the general ledger data, why would they be required to review waiver requests?

Recommendation: Auditors charge by the hour or scope of work and any time spent reviewing waiver requests diverts Medicaid funds that should be used to support vulnerable individuals to paying unnecessary audit fees. PAR recommends that the sentence should be reworded as follows: "Annually, the independent auditor of the facility will review the cost report submitted for the most recently complete State Fiscal Year ~~and waiver requests submitted for that same period to ODP~~ using the Agreed Upon Procedures outlined by the Department and will verify, at a minimum, the following information:"

Response: The intent of this review is not for the auditors to review the waiver requests as if they were ODP. Reference to waiver requests will be removed.

15. Comment: On page 14 in the "Audit Guide," the fourth bullet point would benefit from clarity relative to the extent of testing the independent auditor needs to perform on bullet point five. It is not reasonable for auditors to test 100% of all transactions as this would be extremely time consuming and expensive. Recommendation: Since the auditors typically perform agreed upon procedures on a test basis, based on sampling techniques widely accepted in the external independent audit industry, PAR recommends clarifying the scope and extent of testing in the instructions. This item should be re-written as follows:

“Based on testing a sample of transactions, which may be performed in conjunction with Single Audit Testing (if applicable), the original evidence of cost, such as purchase requisitions, purchase orders, vouchers, vendor invoices, requisitions for supplies, inventories, timecards, payrolls and bases for apportioning costs, that relate to the determination of reasonable costs match the cost report and waiver budget schedules filed with the Department.”

Furthermore, we also recommend removing “and waiver budget schedules” from bullet point five and “budget schedules” from bullet point two of this section. The auditors are testing the cost report and not the ODP approved budget schedules. A cost benefit analysis needs to be considered prior to finalizing the Independent Auditor agreed upon procedures. Not requiring independent auditors to be involved with Budgets and defining the scope of detailed expense testing to a sample basis will keep audit costs at a more reasonable level. Otherwise, excessive audit costs will divert Medicaid funds that should be used to support vulnerable individuals to paying unnecessary audit fees with little to no additional value added.

Response: The instructions are not meant to represent the specifications of the actual AUPs. The Audit Guide section in the instructions is meant to establish minimum levels of verification upon which the AUPs will be based. References to waiver budget schedules will be removed. The AUPs will be rewritten in the next few months.

16. Question: On page 20 [Schedule 2], why is the Department still collecting data on COVID positive cases and deaths in the cost report? This is reported to the Department through other means. The goal of the proposed cost reporting changes was to streamline the process. Adding questions that have already been reported elsewhere add to the amount of time it takes to prepare and review the cost report. [also #44 & 74]

Recommendation: PAR recommends these questions be removed from the cost report. If this section remains, PAR recommends that ODP clarify how to report the staff metrics as many staff work in multiple ICF homes due to the current workforce crisis. PAR also recommends that ODP remove questions from the cost report that are duplicative and have been reported to the Department elsewhere.

Response: Some of the other reporting has been eliminated as discussed during the Task Force meeting. Resident positive cases and deaths still must be reported since ODP may still need this information to respond to inquiries from CMS or other Commonwealth agencies, such as the Governor’s Budget Office. ODP Fiscal Bureau ICF unit was repeatedly asked for this information since the start of the pandemic. Section V COVID-19 Statistics pertaining to employees and periods of quarantine will be removed.

17. Comment: On page 30, Section III – Equipment/Other Fixed Assets, Item A indicates that a non-depreciable fixed asset is expected to have a useful life of less than one year. However, this is inconsistent with the note on page 37 and 39 which describe Deputy Secretary Ahren’s November 2018 Waiver of the 55 PA Code § 6211.4 definition application of depreciable assets threshold of \$500 and allows ICF/ID providers to depreciate assets over \$5,000 (i.e., expense items less than \$5,000). Therefore, items costing less than \$5,000 may be expensed in the year purchased if that agrees with the provider’s capitalization policy.

Recommendation: This treatment is irrespective of the useful life of a fixed asset costing less than \$5,000. PAR recommends that ODP clarify Item A relative to assets costing less than \$5,000 and having a useful life of greater than one year.

Response: This definition will be corrected to exclude the reference to a useful life. (No change in policy, the Purchase-Non Depreciation Assets line is to be used for Minor Equipment that is expensed in the year purchased.)

18. Comment: On page 43, Sections A and B in Schedule 10 may take providers significant time to prepare and it may take ODP significant time to review. As they can be completed on aggregated data, there is little value added in these sections.

Recommendation: ODP should remove Section A and B from Schedule 10 and only keep Part C, Compliance Questions for Federal Requirements. ODP can still meet its federal compliance requirements by keeping the checklist which is certified through attestation by the Provider Agency. The information included in Section A and B is already periodically reviewed through separate audits or reviews performed by the Social Security Administration, the local Administrative Entity (County), the Provider Agency's Independent Auditors, and from time to time the County Assistance Office in conjunction with the Medicaid renewal process. This information is also reported back to Social Security during annual representative payee reporting as required by law. Reporting the information again in the ICF cost report would not add value and is not required by regulation. Removing these sections would help streamline the cost reporting process.

Response: Parts A and B will be removed.

ID-47 Budget Form

General

19. Question: There has been a schedule in the former budget package to calculate the over 13% admin allowance and if providers are over that limit, it put the difference in unallowable. Is this form going to do that or do we just submit as is and does ODP look at that?

Response: The new ID-47 Budget and Budget Change form will be reviewed to incorporate an edit check of the 13% admin limitation and possibly an automatic calculation of the 13% admin adjustment.

Schedule 1

20. Question: For Table 3A, providers are to use the lower of actual costs or approved budget as their basis. However, if using the approved budget/funding levels, should one-time only approved items on Table 3A be subtracted? What should providers do with the extraordinary COVID costs on both Table 1 (if needed for FY 21/22) and Table 3A?

Response: The new forms (created after task force meeting) will have a requested rate calculation on one tab, and the submitted budget should agree. Prior year one-time only items should be removed from both the rate calculation and the budget. There will be an edit check to ensure items affecting the rate were also accounted for in the accompanying budget.

COVID-19 costs (other than PPE) will continue to be handled as an extraordinary item; therefore, a waiver request must be submitted, and the costs identified via the Budget Change form within whichever line and cost center they are recorded on your books. That is, no special schedule for extraordinary COVID-19 costs is necessary on the ID-47.

21. Question: For Table 3A, where can providers ask for any extraordinary COVID costs that may still be needed in FY 21/22? [also #77]

Response: COVID-19 costs (other than PPE) will continue to be handled as an extraordinary item; therefore, a waiver request must be submitted, and the costs identified via the Budget Change form within whichever line & cost center they are recorded on your books. That is, no special schedule for extraordinary COVID-19 costs is necessary on the ID-47.

22. Question: If the provider files more than one waiver for a location in a fiscal year, how do these forms work? There does not appear to be any way to list the first waiver amount vs. the second waiver amount. Do you enter the total on Schedule 1, Table 1 if the first waiver is not approved yet? If the first waiver is approved, do you enter that budget amount on Schedule 1, Table 3A?

Response: The redesigned ID-47 includes a new Budget Change form tab on which providers can clearly list each waiver item requested. The associated dollar amounts will flow automatically to the ID-47 Budget. When a subsequent waiver request is submitted with new requested items, the same file will simply be updated and the submission date noted in the appropriate column (i.e., the waiver requests will be additive for the fiscal year until the provider receives an approval). Once a waiver request is approved, a new approved funding level will result from it.

23. Comment: Provider is unclear about how the unallowable costs feed in.

Response: The instructions will be reviewed and more information about unallowable costs will be added if necessary. Separate schedules for unallowable costs have been removed from the revised ID-47 and a similar change is being considered for the ID-46.

24. Comment: Provider will need to know their waiver issues ahead of time to be able to complete the staffing schedule, since you are only putting the waiver amounts there (and you have to go back to the prior budget to get a starting number).

Response: Thank you for your comment. The staffing detail schedule has been removed from the new ID-47 Budget and Budget Change form.

25. Question: For bed decreases and reductions to budget, how can negative amounts be entered on the form? The forms do not allow you to enter negatives. To reduce costs what are negative waiver issues (for example, staffing and food) the provider must be able to enter negatives on the forms.

Response: The templates will be updated to accommodate negative amounts.

Schedule 2

26. Question: If waiver issues are overtime (one-time only) and rate increases (on-going), how can providers separate the benefits related to them on Schedule 2?

Response: The ID-47 Budget and Budget Change form has been updated to allow for this separation. Schedule 2 has been removed.

Schedule 4

27. Question: How does the change in Rental/Food Stamps income get reflected on approved budget forms? Does this need to be entered on Schedule 1, Table 1? If so, this is not a waiver issue.

Response: The new Budget Change form of the redesigned ID-47 will permit changes other than strictly waiver requests.

ID-46 Cost Report Form

General [Schedule 11]

28. Comment: Some of the template tabs require more detail than is necessary.

Recommendation: PAR recommends that ODP allow providers to aggregate some information requested in the Cost Report to allow for greater efficiency. For example, in the staffing cost tab, the ICF Cost Report requires Overtime, Vacation/Holiday/Sick, regular pay, shift differential, training, etc. all to be reported on separate line items by positions. ODP previously accepted total compensation costs of DSPs, total compensation costs of frontline managers, and other staff on the former waiver cost reports without having providers specify how much was overtime, versus paid time off, or training. Analytics and cost assessment can still occur with aggregated data and far less time may be spent preparing and reviewing the excessive lines of the staffing tab of the Cost Report. Since the independent auditors will also be testing payroll costs, aggregated costs should be sufficient on the Cost Report.

Response: ODP-requested this level of detail so that Regular Pay rates can be compared among facilities. This is very helpful when reviewing waivers for ODP to be knowledgeable of the current pay rates of particular positions. The pay type column has not changed since FY 2017–2018 and the specific instructions resulted from past reporting, which included inconsistent unusable payroll data. For instance: some providers record time along with overtime costs, while others only have an expense premium; therefore, it was found that in order to compare pay rates from facility-to-facility overtime needed to be segregated from Regular/Base pay. As noted in footnote D of Schedule 11, VHST or PTO were segregated because these costs do not have corresponding hours and leaving them in with the regular pay resulted in inflated average hourly rates. Shift Differentials are not required to be separated and footnote C of Schedule 11 specifically states 'ODP prefers that Shift Differentials and 1:1 staffing not be split out from regular pay, so that an overall average is derived'. Training was never mentioned as required or suggested to be separated in either the forms or the instructions.

29. Comment/Testing Observation: Some of the data is hard to proof as it is pulling from budget data which is not available (new forms).

Response: Thank you for your comment.

Beneficiary Acuity

30. Comment: There is a lot more detail being requested for each individual. Entering the detail requested for each individual will be time consuming to complete and seems unwarranted.

Recommendation: PAR requests that ODP provide an explanation for why the additional detail is being requested for each individual. The current form is very time consuming for providers and may take time away from individual care. [also #46]

Response: SIS/HRST are still a year away and in development. The current process will be utilized until the new process is developed.

31. Comment: It is hard to correct a typo within the cells that have a dropdown option.

Response: Instructions will be updated to provide additional information regarding circumstances where an incorrect entry has been made in cells where dropdown selections are used.

Schedule 12-HC

32. Comment: The "total" column is not wide enough to show the total number. As the column is locked, providers cannot expand it to view the full number. [also #61.a]

Recommendation: PAR recommends that ODP ensures that the "total" column is wide enough.

Response: This change will be made.

Schedule 19-A

33. Comment: There are not enough lines under "pay incentives."

Recommendation: PAR recommends that the number of lines under "pay incentives" be increased to facilitate efficiency.

Response: This change will be made.

34. Comment: It appears that the form might total incorrectly by cost center. When testing the form, the totals by cost center (R&B, HC, Ancillary, GA) do not calculate correctly on the bottom of 19-A.

Recommendation: PAR recommends that ODP ensure that the form totals correctly by cost center.

Response: This item will be reviewed and updates will be made as needed.

Part II – Comments Received 7/2/21

General Comments

35. My staff and I have spent several hours trying to compile constructive comments on these documents, and still feel there are many hours to go, but no time left. I am sorry to say that I find the forms and instructions to be a disappointment, and not a step forward in "streamlining" the processes. I think a better product would have resulted had there been input from providers (or myself) during development. [also #80]

My recommendation is that the existing forms and instructions be used for another year, and that a small provider workgroup develop the forms for use in FY 2022-2023.

Response: We have listened to the feedback received and revised the process and created a new simplified ID-47 and Budget Change Request form. ODP wishes to proceed with implementation for FY 2021–2022.

36. There was not enough time for proper review of the forms/instructions and test the forms.

Response: ODP will continue to accept comments if they are particularly relevant.

37. Combining the instructions together for ID46 and ID47 is cumbersome and confusing. Why not maintain separate instructions for the ID46 and ID47. [also #2]

Response: Thank you for your comment. This is being discussed and may result in separated instructions.

38. It appears these reports/budgets/requests will require more time and effort, not less. [also #67]

Response: The ID-46 Budget and Budget Change Request form has been simplified. The cost report review and desk audit processes are being combined. In the future, ODP staff will have a standard database, which will save resources and time.

39. There appears to be mixed terminology in the instructions, which makes it hard to follow and understand what is required.

Response: Thank you for your comment.

40. The cost report should focus on the costs for the fiscal year, and should not include extraneous information.

Response: Thank you for your comment.

41. While the forms can be submitted "electronically" on disk or flash drive, you are still requiring a paper signature, why?

Response: ODP is working on a process to accept digital signatures, which will be compliant with all relative Federal and State regulations.

42. The ICF regulations specify that a desk audit or site audit shall be conducted by the Department each fiscal year which would address some of the items now being incorporated into the cost report and/or budget forms and instructions.

Response: The Department is revamping the cost report review and audit process as part of the streamlined cost settlement process and trying to do more functions with fewer staff. Primarily, the Commonwealth is streamlining and combining the cost report review and desk audit for the tentative and final settlement processes and reducing the overall number of forms. The AUP by the Independent Auditor will be a step before the final cost settlement that will assist ODP staff who will now be conducting the desk audit in house in conjunction with the cost report review.

Current Forms	Future Forms
<ul style="list-style-type: none"> • Waiver Form 2 • Waiver Form 1&3 (w/ signature) for each waiver item requested • ID-47 Budget Form containing 17 schedules • Occupancy waiver request letter • Movement of Funds form • Budget Expenditure Sheet • ID-46 Cost Report • Desk Audit inquiry forms for Executive Compensation 	<ul style="list-style-type: none"> • Transmittal Letter Form • ID-47 Budget and Budget Change Form • ID-46 Cost report

Current Process	Future Process
<ol style="list-style-type: none"> 1. Waiver Requests (Oct) including signed Waiver Form 1&3 for each item 2. ODP Waiver approval & request for matching Budget 3. Budget submission (ID-47 containing 17 schedules) 4. Unforeseen Circumstances Waiver Requests (followed by repeat of steps 2 & 3) 5. Movement of Funds (May) with budget expenditure sheet 6. Budget Adjustment for moves exceeding 10% 7. Cost report (ID-46) submittal including separate letter requesting Occupancy waiver (Sept) 8. ODP Desk Review of C/R's (Oct-Dec) 9. Rate Issuance for subsequent year using lessor of latest approved funding or cost report per #8. 10. Tentative Settlement based on complete PROMISe data 11. ODP review of F/S from Independent Audit and AUPs 12. ODP desk audit 13. Final Recommended settlement 14. Final Cost Settlement 	<ol style="list-style-type: none"> 1. Submit ID-47 Budget Change Request form including Transmittal Letter with 1 signature for all Waiver Requests (Oct) 2. ODP use the submitted ID-47 (#1) to approve waiver requests, resulting in automatically generated matching Budget and Rate calculation. 3. Unforeseen Circumstances Waiver Requests (followed by repeat of step 2) 4. Movement of Funds (May) – uses update of same form per #1 5. Budget Adjustment for moves exceeding 10%– uses update of same form per #1 6. Cost report (ID-46) including executive compensation data & comparison to approved budget (previously part of step 12) & Occupancy waiver built into the Transmittal Letter (Sept) 7. ODP Desk Review of C/R's and Desk Audit of data needed for Final Settlement 8. Rate Issuance for subsequent year using lessor of latest approved funding or cost report per #8. 9. Tentative Settlement based on complete PROMISe data 10. ODP review of F/S from Independent Audit and AUPs 11. Final Recommended settlement 12. Final Cost Settlement

43. Please clarify how these forms will make cost settlements easier.

Response: The Department is revamping and consolidating the cost report review and desk audit process as part of the streamlined cost settlement process, which will now be combined. Some information previously asked for by the separate auditors will now be asked for in the cost report as part of the cost report desk audit. Some of the key improvements are:

- Far fewer forms to be submitted by providers with waiver requests.
- The new ID-47 Budget form has been reduced by 16 schedules to the Summary sheet only.
- The new combined ID-47 Budget and Budget Change Request form details the waiver items being requested and automatically generates an accompanying proposed budget.
- ODP staff can use the submitted new combined ID-47 Budget and Budget Change Request electronic file to approve/not approve waiver items requested, with automatic generation of a rate calculation and accompanying approved budget. (This is a significant time savings to ODP staff and eliminates a process for both ODP and Providers.)
- Data needed to complete Final Settlements (executive comp and comparison of costs to budget by cost center and major object of expenditure) will be obtained at the time of cost report submission; thereby facilitating timelier issuance of Final Settlements by fewer ODP staff members.

Specific Comments

44. COVID statistics should be removed. This is additional time and effort to gather this information, when it is reported elsewhere to the Department, and it is not necessary for the cost report, or budget. [also #16 & 74]

See response to #16.

45. The additional schedules for "unallowable" are unnecessary and cumbersome. One schedule for unallowable costs (previously Schedule 5) is sufficient. [also #78]

Response: In order to streamline and consolidate the cost report review and desk audit for the tentative and final settlement, the Commonwealth has captured unallowable costs throughout the cost report.

46. The new requirement to list all individuals and the acuity detail will be time consuming and cumbersome. Resident information for some programs is constantly changing throughout the year and year to year. If this information is necessary for a waiver submission, then require it at that time. If it is absolutely necessary for the budget or cost report submissions, then request it as an attachment, not part of the document, so the data does not have to be reentered. Emphasis should be added to NOT provide individual names. Also, in the past, we have reported resident information as a snapshot on the last day of the year. [also #30]

Response: The instructions will be clarified. The information is only required for waiver submissions affecting 1:1 staffing/day program costs and with the cost report submission as noted above. Names should not be included. Until the HRST/SIS scores are final, this schedule is in development and will only be used for the current acuity.

47. Submission date on budget should be eliminated from Schedule—transmittal letter provides date. If this remains on the schedule, clarify what date to use.

Response: In order for the provider to submit multiple budget change requests in a single year, potentially prior to Commonwealth approval, the date of the submission for each budget change request (of the transmittal letter) is requested to be placed on the ID-47 Budget Change form. This will assist the Commonwealth staff in ensuring that the documentation and ID-47 Budget Change forms can be easily cross-walked.

48. The calculation of a standard deviation for purposes of waiver submissions is inappropriate. The SIS scores and HRST are not all encompassing of an individual's needs; SIS is not frequently updated, and often disputed by the provider. The intention of the ICF regulations, when promulgated, was to recognize the uniqueness of each program and each individual. "The ICF/MR reimbursement methodology is reflective of the individual client focus as opposed to the collective care of clients." [also #12]

Response: SIS/HRST are still a year away and in development. The current process will be utilized until the new process is developed.

49. It appears that the waiver of minimum occupancy request is now incorporated into the transmittal form. If that is correct, please clarify that a separate letter is not needed. The regulations state, "The request for waiver of the minimum occupancy requirement shall be submitted in writing to the Deputy Secretary."

Response: The written waiver of minimum occupancy is being combined and submitted in the Transmittal letter form and a separate letter is not needed.

50. Too much duplicative information is requested in the transmittal letter.

Response: The Transmittal letter is intended to replace waiver forms 1 and 2, the waiver of occupancy letter, the face page on the ID-46 and ID-47, as well as the need for multiple documentation submissions if a budget change is the same across multiple facilities.

51. Occupancy percentage should not be required in a budget. Prior year info requires additional time to look up and enter, while this information is already available to ODP. Current year to date occupancy will require additional collection of information and calculation. If it is critical for ODP to have the occupancy percentage for a waiver submission, then make that a requirement to be included in the narrative.

Response: The intent behind asking for the occupancy percentage is to inform instances where the facility is requesting higher staffing patterns. The instructions will clarify that this information is only needed when the facility is requesting enhanced staffing.

52. Day program: The regulations state that for related party, the lesser of actual costs or market rate are allowable. The new instructions now define market rate as the ODP fee schedule. This is not appropriate. If fee schedule rates do not adequately cover allowable and necessary costs, it can be argued that they are not market rate. This limitation was applied in 2012, then reversed a few years later, now being reversed yet again. [also #65 & #83]

Response: We are re-evaluating a means to ensure Day Program costs have some measure of cost containment and do not exceed market rate.

53. What is a "cost limit waiver" and how is this supported in the regulations? [also #75]

Response: Waiver requests are essentially requests for waiver of the approved funding which is a cost limit; therefore a "cost limit waiver". No new limits are being imposed; this is simply new terminology/language consistent with 2 CFR 200.

54. "Significantly demonstrable different" is now defined as more than 10% of the overall facility costs. Why? Is this applicable per waiver requests or to the sum of the requested waiver costs. [also #73]

Response: This definition clarifies that 10% is the threshold for required budget modifications, movement of funds and waiver requests. A provider does not *have to* submit a waiver request if the amount is less than 10% of approved funding; however, a provider *may* submit a waiver request for any amount you choose (i.e., there is no minimum waiver amount that a provider may request, but amounts over 10% are considered demonstrably different and must be requested.)

55. In the budget forms, Table 1 is for the requested amount. Table 2A is where ODP enters the approved amount. Table 2B is the difference between the request and the approved, and it is being defined as "unallowable." When a waiver request is not approved by ODP, it should mean that ODP is not approving an increase in funding; it should not be targeting the cost as unallowable. Unallowable costs are defined in the regulations.

Response: The need for unallowable has been removed from the updated ID-47 Budget and Budget Change forms.

56. Previously, budgets were submitted for 1) a waiver request; 2) to agree with approved rate setting correspondence; 3) post appeal budget revisions, and expenditure sheets were required for budget modifications and Movement of Funds requests. Please clarify if these submissions will still be required. [also #82]

Response: The forms being submitted are changing (since the task force meeting) and will not be duplicative. ID-47 Budget and Budget Change forms (with the modifications flowing through on Schedule 1) for each of the affected facilities are required to be submitted for all waiver requests, post appeal budget revisions, budget modifications, and Movement of Funds requests. A Transmittal letter is required for all submissions — this will include waiver requests, post appeal budget revisions, budget modifications, and movement of funds. No other documentation is needed.

57. Please clarify what is required for submission when a Movement of Funds is requested for programs that are on the Standard methodology. [also #81]

Response: A Transmittal letter is required for all submissions — this will include movement of funds. ID-47 Budget and Budget Change forms (with the modifications flowing through on Schedule 1) for each of the affected facilities are required to be submitted for all movement of funds requests. No other documentation is needed.

58. The instructions for waiver submissions state that a facility may submit a combined request for multiple related issues that would affect a single cost report schedule (e.g. salary and benefits, depreciation and loans). I agree with the combination, but in these examples, the salary and benefits are on different schedules, and depreciation and loan expense (interest) are on different schedules.

Response: A Transmittal letter with each affected facility's budget must be submitted. The ID-47 Budget and Budget Change form includes a crosswalk of the waiver requests for the amount of the

request and where located on each facility's cost report and automatically updates the Schedule 1. While the Transmittal letter can be combined, the applicable areas of each ID-47 will still have to be completed for each facility.

59. The regulations refer to 10% limitations in more than one area. The regulations limit spending by major object/cost center to no more than 10% over the corresponding budgeted amount. When a provider realizes this is occurring, they may submit a request for a budget modification to shift budgeted dollars so that the 10% excess does not occur (at time of audit or final cost settlement). The regulations also allow providers to submit a Movement of Funds request to shift up to 10% of an approved funding level to one or more other sites, with a net zero change in the sum of all of the approved funding levels. A provider might also address the line item limitation issues at the same time as a Movement of funds. The new instructions seem to skew what was intended by the regulations when they were promulgated.

Response: The intent is to clarify each of the items above and clarify that 10% is the threshold for all three of the terms consistent with the regulations.

60. Compensation limitation should be removed from the budget and cost reports forms as it unnecessarily cumbersome. This is something that should occur at time of audit.

Response: The Department is revamping the cost report review and audit process as part of the streamlined cost settlement process. The ODP desk audit will now be performed as part of the cost report review and requires compensation data earlier in the process.

61. The forms and instructions require better proofing, clarification, and testing for data entry and formatting. We have not been able to test all schedules. For example,

- a. Schedule 12 rates—the field size is not sufficient for larger numbers. [also #32]

Response: This change will be made.

- b. Schedule 6A instructions refer to prior year cost report "Col B2"—does this column exist?

Response: The instructions will be updated to reflect the appropriate prior year reference of Column 3.

- c. Print settings on the forms need to be established. Although it appears that ODP is not requiring print copies, print copies are still necessary for other purposes. [also #5]

Response: Print ranges will be set up for the final versions.

Part III – Comments Received via Task Force Meeting 7/6/21

Note: Some responses were provided during the meeting, however final answers are now noted.

62. When are ODP's responses to the Mercer redesign project expected to be released?

Updated Response: Q&A's are being distributed 8/9/21.

63. Do you anticipate the new budget forms being ready for the FY 2021-2022 budget process?

Updated Response: That is still the goal. Our timeline is to distribute the new forms by 9/1/21.

64. What is the anticipated implementation date? And will there be time for more public input since the time frame was so short for comment?

Updated Response: A second comment period will not be possible in order to meet our targeted Sept 1st release date.

65. We are very concerned about the Day Program cap. ODP CPS rates are inadequate to cover costs. [Also verbal from MaryAnne: The regs specify related party must be adjusted to the lower of Actual costs or Market value. The new instructions are now imposing ODP's HCBS fee schedule on the ICF program. This does not seem right. Chapter 51 regulations pushed the HCBS fee schedule on the ICF, then ODP flip-flopped and said they should not. Now it appears ODP is flip-flopping again and imposing a cap. Are you capping anything else?] [also #52]

Updated Response: We are re-evaluating a means to ensure Day Program costs have some measure of cost containment and do not exceed market rate. Nothing else is being capped.

66. Will we have time to test the final format of the budget forms before we begin the budget process.

Response: ODP will continue to accept comments if they are particularly relevant. Current timelines do not accommodate provider testing of the budget forms for FY 2021-22 use.

67. The new forms appear to be more labor intensive. It seems it will take longer to prepare and longer to review. [also #38]

Response: The ID-47 Budget and Budget Change Request form has been simplified. The cost report review and desk audit processes are being combined. In the future, ODP staff will have a standard database, which will save resources and time.

68. Do the updated forms make the job easier for ODP staff? It appears it will take providers just as long or longer to complete the revised forms.

See response to #42 & #43.

69. The forms are still asking for far more cost detail than required by the regulations. The former waiver cost report required less detail. ODP's risk will be mitigated by agreed upon procedure review by independent auditors. I encourage ODP to revisit every tab of the cost report and determine if all of the requested information is needed. There is an opportunity to streamline by requesting less information in the cost report re-design.

See response to #42 and changes made to the final version.

70. Can you explain what constitutes an "unforeseen circumstance"? If a provider is in the planning process for an organizational change and submits that in a waiver, what would that fall under? Nothing else fits.

Response (ODP): Anything that is submitted by the October 31 deadline could be labeled as an unforeseen circumstance due to lack of choices. However, waiver requests, which come in later in the year (particularly the February to June timeframe) should truly be unforeseen. Something such as a planned organizational change will not be accepted as an unforeseen circumstance late in the year and will need to be submitted for the next year.

71. A follow up question to my first question [#63], when will we, the providers, be notified about what forms we are to use? (the old budget forms or new one) What is your date to let us know? We start our process mid-August due to the number of waivers we submit annually.

Updated Response: For use with FY 2021/2022. The new forms will be released by 9/1/21.

72. Can you share with all of the providers the list of questions from all providers that were submitted to you on the new forms so that we aren't submitting redundant questions and so we know that it's something you are already addressing?

Response: Yes. (Questions were initially sent out on 7/7 and version with complete answers on 8/9.)

73. It appears ODP is applying a minimum amount for a waiver request - Is this correct? Is it a percentage of total costs or total funding - 10% is too high. Some things cost the same regardless for a small provider or larger provider, a flat percentage gives the larger provider more advantage. The regulations don't define a minimum. [also #54]

Response: This definition clarifies that 10% is the threshold for required budget modifications, movement of funds and waiver requests. A provider does not *have to* submit a waiver request if the amount is less than 10% of approved funding; however, a provider *may* submit a waiver request for any amount you choose (i.e., there is no minimum waiver amount that a provider may request, but amounts over 10% are considered demonstrably different and must be requested).

74. Why are COVID statistics included? These are captured elsewhere. [also #16, #44]

See response to #16.

75. What do you mean by "cost limit waiver"? [also 53]

Response: Waiver requests are essentially requests for waiver of the approved funding which is a cost limit; therefore a "cost limit waiver". No new limits are being imposed; this is simply new terminology/language consistent with 2 CFR 200.

76. Will there be a cap for DSP wages?

Response (ODP): No.

77. What will process be if you have excess COVID costs for FY 21/22 in new forms? There is no separate section on budget forms. [also #20 & #21]

Response: COVID-19 costs (other than PPE) will continue to be handled as an extraordinary item; therefore, a waiver request must be submitted, and the costs identified via the Budget Change form within whichever line and cost center they are recorded on your books. That is, no special schedule for extraordinary COVID-19 costs is necessary on the ID-47.

78. Why are there so many extra forms addressing unallowable costs when unallowable are defined in the regulations and the previous Schedule 5 seemed to suffice for that purpose? [also #45]

Response: In order to streamline and consolidate the cost report review and desk audit for the tentative and final settlement, the Commonwealth has captured unallowable costs throughout the cost report. This comment will be considered when the cost reporting templates are finalized.

79. New budget forms don't allow for "shifting" funds from one line item to another (either under 10% or over 10%). What is the process supposed to be? [also #9]

Response: The ID-47 Budget and Budget Change form has been updated to allow for offsetting shifts from one line or cost center to another.

80. This is quite frustrating as during a task force meeting in Mechanicsburg (2 years ago??) we were asked to volunteer to work on a more streamlined cost reporting/rate setting process. I believe that Ann from Martha Lloyd, Tom C and MaryAnne H volunteered but obviously in looking at the Mercer run process there was very little or no input from providers in this reworking. [also #35]

Response: ODP and Mercer were happy to meet with providers, listen to provider's concerns, and made changes approved by ODP leadership. After receiving the second set of feedback, Mercer made changes requested by ODP. In addition, we will work through and provide answers to all of the provider feedback questions.

81. If a provider is on standard methodology and wants to submit a Movement of Funds....how would they do that now since a budget is not required for Standard Methodology? [also #57]

See response to #57.

82. For the last comment on Maryann's question, I don't see any way to submit only the first page of the budget forms. This will need to be looked into. [also #56]

See response to #57.

Part IV – Comments Received after the Task Force Meeting

83. Melmark has one additional comment that we would like to add to the proposed ICF cost reporting templates/instructions:

We have concerns regarding the newly proposed limitation on related party day program costs for ICF participants. We believe the regulation is not being interpreted correctly. Regulation 6211.114 allows reimbursement for the lower of actual costs of providing the service or the market price of comparable services in the region. The proposed instructions and templates limit reimbursement to the lower of actual costs or the waiver program fee schedule. The fact that ODP has established a waiver fee schedule, which has been effectively frozen for five years, does not make the waiver CPS fee schedule the Market Rate. Take our CPS program as an example, which is also funded by various non-ODP payers including other states, school districts, insurance companies, and private pay families. Our CPS program is available to the public at our standard (market) rate, which approximates the actual cost of providing this service. Market participants (other states, school districts, insurance companies and private pay families) agree to pay for these services at Melmark's standard market based rate. It is notable our CPS standard market rate, which is approved by our County Department of Human Services, approximates the actual allowable cost of providing the service which is greater than the sub-cost waiver CPS fee schedule.

The reason the market rate and actual cost of providing support are higher than the fee schedule is due to the fact that the costs assumptions underlying the waiver fee schedule are now more than five years old. The cost of providing services over the last five years has indisputably increased. The annual personnel cost increase is supported by Department of Labor data, Statewide DSP wage surveys, and the Commonwealth's own experience running ICF's. Individuals served in state centers

receive the state equivalent of CPS from Commonwealth Employed DSP's who, in addition to receiving step increases for each year of service, have also received raises ranging from 2-2.5% per year. On top of wages, necessary and unavoidable allowable employee benefit costs have also increased year over year. The current workforce crisis is making costs even higher as extremely high vacancy rates are forcing programs to rely more on overtime cost which is paid at time and a half. The Waiver fee schedule is not indicative of the actual Market Rate. In fact the waiver fee schedule assumes 30% of DSP's work no overtime and 70% work less than one hour per week.

The regulation also references the market price of comparable services in the region, which implies that regional cost of living differences exist. Countless sources including the Department of Labor, MIT, and the federal government's own pay practices across different regions within the Commonwealth demonstrate substantial regional cost of living differences exist in PA. Regional minimum wage laws, which are applicable to Providers who contract with the City of Philadelphia or based on location recruit staff from Philadelphia, also demonstrate why a regional aspect should be considered when applying the market price of services for various regions of PA.

When assessing the market rate for day program services for ICF funded individuals, one must consider that on average, ICF individuals tend to have greater medical fragility or medical complexity than their waiver funded counterpart. For these reasons the cost structure and support needs differ from the supports provided in many solely waiver funded CPS programs. Also for these reasons, in some programs the structure and nature of the CPS service provided to ICF participants is distinguishably different than the service provided to waiver funded participants. In these cases, the ODP fee schedule cannot be considered a market rate for the services provided to ICF participants since the nature and extent of the service differs. We also understand that some provider's directly charge their day program staff to the ICF residence and therefore would avoid the related party CPS waiver fee schedule cap issue. Applying the cap to some but not all providers is inconsistent.

The current cost report template does not limit related party day program costs to the Waiver fee schedule and we strongly recommend that ODP keep it that way. ODP can still comply with the regulation by not referring to the waiver fee schedule as the ICF "Market Rate" since it is not.

Providers are not asking for general a profit on this service. Instead we are merely requesting a fair and reasonable interpretation of this regulation to allow providers to be reimbursed for all reasonable, necessary, and unavoidable allowable costs of providing day program services to ICF participants. Our final concerns is the proposed limitation of reimbursement of related party CPS services would incentive Providers to keep ICF participants in the ICF (as was frequently the case during the COVID-19 pandemic) instead of serving them in a CPS program. When an ICF individual is served residentially, the full cost of supporting the individuals during day program hours is reimbursable as the proposed waiver fee schedule cost limit only applies to CPS. Deciding to limit full cost reimbursement when participants are accessing the community but not when they are physically served in ICF's is contrary to Every Day Lives and the initiative to increase community participation. Please reconsider the proposed cost limit which could inadvertently result in reduced community access opportunities to this vulnerable group. (7/12/21 email)

Response (ODP): Thank you for the comments. We are re-evaluating a means to ensure Day Program costs have some measure of cost containment and do not exceed market rate.